

Front and Back

17

Wayne R. Werth # 233196

Clare County Jail

255 W. Main St

Harrison, MI 48625

September 4, 2014

FILED
SEP 10 2014
CLERK'S OFFICE
DETROIT

11-20129

MOTION TO PROCEED IN PRO SE;AFFIDAVIT PERTAINING TO COUNSEL

I, Wayne R. Werth, do hereby depose and state the following pertaining to the things I feel and know are/and have caused a conflict of interest:

- 1) I have written countless letters since Mr. Day has been appointed to me, as well as motions, to all parties concerning areas I feel Mr. Day has not provided professional, competent help, dating back to over a year ago;
- 2) My father has sent letters and affidavits as far back as August of 2013, which Mr. Day never answered and even claimed he never received on record at his Motion to Withdraw hearing;
- 3) I have countless letters that have gone unanswered by Mr. Day, even after this Court requested that he respond;
- 4) At the said hearing noted in 2), Mr. Day made some very untruthful statements to the Court rather than to just admit that he has not prepared for my case, for which I filed a Motion to Unseal the transcripts, as well as a Reconsideration, because I have outside parties that know and agree Mr. Day's statements were untruthful;
- 5) I have several letters where I asked Mr. Day first to file a Motion to unseal the transcripts;
- 6) On or about May 24, 2014, I received my first letter from Mr. Day, dated May 23, 2014, in which he apologized for not responding to my letters and said that he seen Jencks material on May 22, 2014, where he told me that a Wayne County Deputy has come forward with testimony, that he would be answering each of my concerns, and that he will be sending me the other stuff he seen under Jencks;
- 7) ~~On or about June 21, 2014~~, On or about June 21, 2014, I received a letter from Mr. Day - my 2nd - dated June 13, 2014, saying that he joined us in on some motions, even saying he would make copies if I needed and wanted them;
- 8) Besides for the letters in between my June 24, 2014 letter requesting all those things and more, in this letter I asked Mr. Day to come see me, so we could get on a mutual level, as well as other things - for which Mr. Day never responded;
- 9) On July 16, 2014, I again wrote another letter requesting all the same things I have been asking for for over a year, including the things he said he was going to send;

Note: Staff also tried calling Mr. Day and also left messages. This was done by Lt. Smith, who also assured Werth that she would provide the truth if subpoenaed about untruths Mr. Day told to the Court at his motion to withdraw hearing.

- 10) On August 28, 2014, Mr. Day came to the County Jail, his 3rd visit, where he informed me that I had court the following day, and we discussed my iPad—which I had been requesting to him and the courts about for over 4 months, where he called Emma Greenwood and I agreed to send it back;
- 11) We talked about the motions he never sent and he asked me if I had paper for something like that so I could view them, for which I stated obviously I don't;
- 12) We talked about the Jenks material, which he had not sent and said he would at court the next day;
- 13) We talked about discovery that he has had the entire time and I have requested to see it, things he received by mail from Joan Morgan, including a disk that he had told me before he did not receive over a year ago but stated he did have it on this day. He told me he would have this discovery the next day at court, where he only had some Jenks material, finally after 3 months, and promised to bring this other discovery at the beginning of this week; I am facing life imprisonment, and Mr. Day treats this like a petty misdemeanor;
- 14) On September 3, 2014, I had a friend call him and he left a message for me, describing that he had important things to discuss with him concerning me;
- 15) The next day I called my friend and he said that Mr. Day has not bothered to return his call, so I ^{asked} Mr. White and Mr. Craven if I could use their phone to call my attorney, for which Mr. White took me out at approximately 1:00 p.m., where I called—several times—Mr. Day's office and cell phone, leaving messages;
- 16) I had my father and my friend continue to call both places, but he never responded, nor would the office accept my latter calls collect where they simply hung up;
- 17) On August 29, 2014, Mr. Day agreed to contact witnesses that I had asked him to contact over a year ago;
- 18) I am being forced to go to trial, and Mr. Day cannot even answer or return calls;
- 19) I am not prepared for trial, and Mr. Day has not once kept his word to me, he has lied to me, lied to the Court about me, repeatedly tried to get me to go pro se, and has not responded to my letters or requests;
- 20) Because of these conflicts, I do not feel comfortable with him, and believe I would do better pro se.

I ~~attorney~~ R. Werth, declare under the penalty of perjury the foregoing is true and correct.

Execution on 5 day of September, 2014.

Respectfully Submitted,

Wynne Werth

MOTION TO PROCEED IN PRO SE

- 1) Werth had raised this issue before and was sent for a mental evaluation, which he is deemed competent;
- 2) Werth agreed not to go pro se after a meeting before Werth's hearing on or about July 15, 2013;
- 3) Werth's reasons for not going pro se were that the prosecution stated certain things as well as Agent Fleming about believing he is being truthful, *inter alia*. Mr. Day has admitted to Werth that he does—in fact—remember certain things, for Werth stated that he would need ~~by~~ Mr. Day as a witness, for which Mr. Day later became hesitant about the truth. Where does Werth stand when his own attorney will not be truthful?
- 4) Werth has many witnesses that need to be located and subpoenaed; ~~some~~ Some may be going to trial with Werth; *
- 5) Werth has discovery that will be used as exhibits that must be picked up from Werth's property and stuff that needs to be mailed. *Nok:* Werth's father mailed this affidavit about discovery to Mr. Day the original—with a letter ~~let~~ in August of 2013, a letter Mr. Day never responded to and claimed he never received at a hearing. This is crucial document about discovery before the iPad; *
- 6) Werth has many documents that need to be copied and ready for exhibits;
- 7) Werth requests a private investigator, to proceed pro se, docket sheets (which he has requested ~~my~~ phone and countless letters for many, many months, copies of all letters sent to the prosecution and to the judge's office, these copies being very urgent ~~be~~ for reasons, and again requests the government to be party to a polygraph that is being set up soon at this facility—for which is one of the reasons the letters are requested; There are many other things Werth needs that this Honorable Court should provide on the account ~~of on a~~ ~~of a~~ of a bifurcated trial. Werth wishes to place on exhibits all his letters to Mr. Day and the clerk of the Court, etc, so the docket will be ripe on appeal and not post conviction.

Respectfully submitted,

W. R. Werth

September 5, 2014

Wayne R. Werth #233196

September 2, 2014

Clare County Jail
255 W. Main St.
Harrison, MI 48625

Director of FOIA Central Office

320 First St, NW

Washington, DC 20534

Re: Freedom of Information Act Request

Dear FOIA Officer,

1) I have sent a request from Wayne County Jail in Detroit, Michigan, in February of 2013, followed it up from a request from FDC Englewood dated May 29, 2013, sent a request to FCI Cumberland on January 27, 2014, and sent an appeal to this office on March 23, 2014 — the last three requests are provided herein this request;

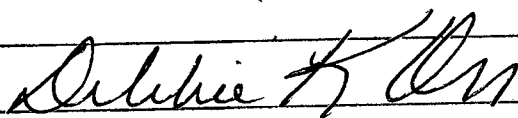
2) I am representing the things in the last documents again;

3) I am putting all documents in an envelope, pre-paid postage, to the above-captioned address;

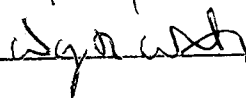
4) I am sealing it and giving it to the notary to be placed in the U.S. mail on the date of notary. Please note that you are receiving ^{original} of this request and I am keeping a copy, as well as providing others with copies.

I, ~~the~~ Wayne R. Werth, declare that foregoing is true and correct under the penalty of perjury (28 USC 1746)

Executed on 3rd day of September 2014.



Respectfully submitted,



D. K. Orr
Notary Public, Clare County, MI
My Commission Expires Feb 8, 2015
Acting in the county of Clare

Wayne R. Werth #233196

March 23, 2014

Clare County Jail

255 W. Main St.

Harrison, MI 48625

Bureau of Prisons Central Office

320 First St, NW

Washington, DC 20534

Re: Freedom of Information Act Request (5 USC § 552(a))

APPEAL (W.R. Werth Reg. No 28545-039)

Sir/Madam,

In around or about February 4, 2013, I filed a request from the Wayne County Jail in Detroit, Michigan, when shortly after I was transferred to FDC Englewood, where I re-instituted that request. See copy of said request enclosed, ~~dated~~ dated May 29, 2013. I was transferred from there on July 5, 2013 without a reply.

Recently, I filed another request inherently searching for the same material. See copy of ~~and~~ request enclosed. I have received no reply. Last I know of, a party is supposed to receive a reply within 20 days. I wish to appeal these unanswered requests.

I declare that the forementioned is true and correct. Executed on March 23, 2014.

Respectfully submitted,

Way R. Werth

Wayne R. Werth 233196

January 27, 2014

Se County Jail

W. Main St.

Ligon, MI 48625

Freedom of Information Act officer

62 Cumberland 14601 Bulbridge Rd SE

Cumberland, Maryland 21502

Re: Freedom of Information Act Request

(Title 5 USC § 552), Wayne R. Werth Reg. No 28545-039

/Ma'am,

I have in my possession a document filed by the Eastern District of Michigan Federal Court on 1/17, 2010, requesting "records of visitors, money in account and all recorded phone calls from August 7, 2009 to present" pertaining to me, which, of course, is the above captioned name and number.

I request all other documents received and sent by your departments. I request to know if any was received to preserve said recordings pursuant to 18 USC § 2703(f).

I request to know if said recordings are available. If you feel any document is exempted, please include the exemptions and any redacted forms.

If this must go to Central office, please forward it, and/or ascertain me as to any steps taking.

I request within 20 days with said documents or an extension.

I declare that the forementioned is true and correct to the best of my knowledge and belief. Executed

1-27-14.

Respectfully submitted,

Wayne R. Werth

Wayne R. Werth # 28545-039

FDC Englewood

May 29, 2013

9595 W. Quince Ave

Littleton, CO 80123

Director

Central Office

320 First St., NW

Washington, DC 20534

Re: Freedom of Information Act Request (5 USC § 552(a))

Sir/Madam,

Recently, I had filed a request to obtain telephone calls made while at FCI Cumberland. It has been over a month, and I have not received a reply.

Again, I would like to initiate this request, so I may conclude with which calls I ultimately wish to obtain, and the measures I need to take to obtain them.

In particular, there are certain numbers I would like to start with:

1. Ron Roberts (586) 329-5273
2. Dave Roberts (586) 344-6115; (586) 773-5745
3. Kris Cook (586) 871-8202
4. Cindy Lang (586) 524-6584; (586) 206-9457

Please, reply as soon as practical. Thank you for your time and patience; have a nice day.

Respectfully Submitted,
Wayne R. Werth

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Wayne R. Werth,

Defendant/Petitioner,

Case No. 11-20129

Honorable Judge Cleland

v.

UNITED STATES OF AMERICA,

Plaintiff/Respondent.

MOTIONS IN RESPONSE TO PRETRIAL HEARING

AND RECONSIDERATION OF DEFENDANT'S PRO SE

ADDENDUMS TO MR. DAY'S AND OTHER MOTIONS

NOW COMES THE DEFENDANT, Wayne R. Werth, in pro se and respectfully moves this Honorable Court to grant the following requests. In support of said Petition, Petitioner states the following:

A. RESPONSE TO PRE-TRIAL HEARING

1. On 8-29-14, a pre-trial for Werth was held by this Court in regard to a plea agreement, where a document was provided to Werth via Mr. Strauss containing the prosecution's speculated guideline ranges, etc;

2. Long before the indictment Werth had come forth with his part in the various counts on this indictment, both before Werth was sent back to prison on violations spawning from 2 counts sub judice — which were violations Werth freely and openly admitted from day 1 — and after he was released, where one of his statements was taking far out of substance and context concerning the Dresden house, for which he has repeatedly stated in motions;

3. Again after the indictment, Werth expressed numerous times his guilt through letters, etc, to the government; in fact, in letters both to the government and his previous attorney, as well as to the court, that he would be requesting a bifurcated trial.¹ He has repeatedly admitted truthfully his part in Count 3, but adamantly objected to the government's placing of him in the 21 USC § 841 (b)(1)(A) penalty amounts while truthfully admitting he belongs in the lower ranges; moreover, he has repeatedly, truthfully denied any guilt to the other counts he is on;

4. ¹In respect to a plea agreement, how would Werth benefit from a plea — other than the grave miscarriage of justice of possibly being found guilty of charges he is innocent of anyway — if the government's offer is to dismiss charges he is factually and honestly not guilty of anyway? It is a very sad, unjust predicament he should not be faced with and antithesis to ^{the} very liberty, justice, and truth the courts proclaim — even more so because Werth would be enhanced;

B. MOTION FOR RE-CONSIDERATION ON PRO SE REQUESTS

1. Since Werth's First Omnibus Motion filed on March 19, 2013, Werth has filed countless motions repeatedly requesting some of the same things, things that are imperative to a fair trial and he has a right to. Many of these things are because he could not get his attorneys to file for in a timely manner;

2. For almost the entire time of receiving the indictment, Werth has repeatedly requested verbally, through letters, etc. the discovery that Corbett O'Meara had, ²Werth had and has some, and the courts and prosecutor's office has, viz: the putative Bobby document under CI-2 which was given to Werth and which he has somewhere in his property at home. The government has released his name as a government witness in the indictment, yet it is still being treated as Snacks, albeit the one now contains parts that my copy does not but that was testified to.

There were numerous statements by people who were at the bar that gave Corbett O'Meara their very exculpatory statements and were stipulated to at the hearing. These are witness who Werth is going to call summons for trial. There were statements from Werth and Ron Roberts giving to Agent Fleming before the hearing and were provided to Werth and Mr. O'Meara.

There is a statement freely made by Brandy Irwin that is naturally and only can be truthfully exculpatory that the prosecution is holding as Snacks material.

3. For over a year Werth has requested depositions by written interrogatories, both to address the fact that everyone of the members and various hangarounds hold exculpatory testimony for Werth — many he does not know nor heard of — and to ease the burden on the government of ~~summon~~ having to subpoena over 50 people for Werth's trial.

4. For over a year Werth has repeatedly requested his BOP phone calls that Agent Fleming gave very wrongful interpretations of and other issues. More recently, Werth requested they be sent to professionals because of certain areas that Werth knows to be wrong and to receive the seals pertaining to electronic calls. These phone calls are available through FOIA requests,³ yet they are being denied under discovery;

5. For over a year Werth has requested the doctor records of Salvatore Battaglia's doctor pertaining to some very truthful testimony provided by a reliable witness who will be used and is being used in other areas, including the possible lies about Werth making death or being part of anything at the Dresden residence and more; it is also possible this person claimed he had a shotgun only because he was in fear of me, another bald face lie;

6. For over a year Werth has requested Officer notes, Reveal informants, and other various things. More recently, on his addendums with supporting case law and very viable reasons. He has requested hearings that the law claims he has a right to. Most of this is because his attorneys were not filing things that Werth contends he has a right to.

7. Werth stands by these motions and persists in doing so. Since November of last year,⁴ Werth has repeatedly tried to obtain docket sheets, names and addresses of attorneys and clients, and other things from all parties. For 4 months now he tried obtaining simple information about his malfunctioning iPad. He has requested a private investigator 8 months ago to help with these things.

8. Any thing and everything Werth has requested has went unanswered and denied. Now they throw him in group one for trial in a month with people Werth contends will harm him with fatal variances — which he raised over a year ago. This is justice, liberty, honor, etc.? People who are truly facing charges that the government has admitted in words to be wrong. This is honesty and ethical and principle?

9. For over a year Werth has repeatedly begged, as well as his family, for a polygraph test many times through motions and letters and verbally. Werth has offered this to show that he is not lying, scared to death because of the many lies against him that are being used and will be used at trial, and wishes to prove his truthful statements to be desperate

hopes that he can at least offer to the government the consideration of a test that he will pass. And it's more scary because he is afraid of his anxiety giving false readings, yet he feels confident enough in the truth that he will not fail. He has taken one before, failed part and passed, but it was the correct reading.

For the God's sake, lives are at jeopardy here, people who don't deserve these charges, nor the felony that Werth is all too well aware of that will shut you down each time you apply for a decent decent job — even when your work out performs a person who is an instructor of the very course you are in and it is recognized — yet only to be let go because of your past.

Werth's request is not a scam, not some cheap plot to get over. He has numerous times admitted to his actions. Werth begs this Court to let Werth take a test in regard to this charges he's innocent of, to show that defendants are not being truthful. Does not the fact that certain defendants have claimed Werth was in the middle of the road shooting a gun, yet the truth well known that he did not in fact do this spawn doubts to the other implicating testimony? By all honesty and justice is does. These people are going to be used at trial. Does the fact of winning a case mean more than truth?

Werth wishes to show his true drug amount, which he has averaged out. It is so far from what the government has introduced in its letter for the pre-trial hearing that it is absolutely terrifying!

People are lying to get back at others, to help themselves knowing the government wants that person, and other reasons. Werth sees it firsthand, yet not a soul cares about the truth or the lives that are affected by ~~the~~ the lies. What can a man do in this situation? There is nothing left but to try and beg outside parties to listen. Plessee God, let someone out there believe in truth enough to let Werth at least show he is not lying and that others are. These others are government witnesses. They are supposed to be subject to a polygraph under their contracts. Does winning a case override everything?

Werth begs this Court to allow Werth to take a polygraph with a plea and consider the results, or to at least gain the determination of defendants and supposed "guards" who are saying very damaging — elements of crimes — things that are untrue.

10. On 8-28-14, day before the pre-trial hearing, Mr. Day came to visit Werth, where and when he called the lady in charge of the (pads), Emma Greenwood. Werth believes is her name. She assured him that his files would be protected, so Werth agreed to send it for repair. As mentioned, Werth has seeked a resolution with letters and motions to Mr. Day, the prosecution, and the Court numerous times since April. There is a vast amount of documents on the iPad, which took Werth months to go through and place in one of three main Files, where one File contained many sub-files. Sub-files that were prepared for suppression hearings and trial.

If the iPad has somehow destroyed these files, he would be stuck—in the event of trial—with literally days to find this discovery again and put it in files for preparation. Since they all of a sudden throw Werth from the last group—which they have maintained up until the pre-trial hearing—to the first group, trial is in less than a month, a month to have all the things Werth has a right to and requested his attorney to do to get done, including getting the iPad back in time for trial;

11. For over a year Werth has tried to get Mr. Day to seek witnesses, etc, for which now he has agreed. Perhaps Mr. Day was mind-set in other directions—as well as Werth was to—but Werth incessantly stated his fear about parties not holding to their agreement, which in effect is coming to fruit, and repeatedly asked him to prepare for it. Now with a month till Werth's bifurcated trial, he has agreed to try to accomplish many of Werth's requests. Werth has discovery at home and letters that need to be entered as exhibits that need to be found in his box of legal files—which is managed by someone who understands what he/she is looking for. Everything—including the whereabouts of defendants from numerous other cases not directly related but related—from names of witnesses and addresses need to be obtained for the many many subpoenas;

12. After over 2 years to seek all these things and more, Werth is rendered with a month to achieve so much in a fight for his life on charges he is truly innocent of. Werth has more than tried prodomly to request everything and prepare in timely event of trial. All has been ignored by all parties. This is American justice.

WHEREFORE, the Petitioner requests this Honorable Court to grant the following:

a) Grant a polygraph test for Werth;

- b) Order a polygraph test under the Kastigar Contracts to the witness/defendants who are putting lives in jeopardy under false statements;
- c) In case of a plea agreement not worked out and a bifurcated trial request, Werth requests all Brady discovery requested in past;
- d) grant a private investigator;
- e) grant any other further relief this Honorable Court deems just and proper.

Foot Notes

2. Letters to the Judge and Joan Morgan as far back as Aug 16, 2012.

2. Ms. Morgan tried and was told Mr. O'meara could not be reached for awhile. Werth and his family sent numerous letters, in his Omnibus Motion, to Mr. Day in letters, in a Motion for Court Order to obtain Documents sent to the clerk for Judge Borman's Court, which was included as an Exhibit in a Motion for Legal Files from Corbett O'meara's Estate sent to Clerk on May 26, 2014 - which neither were provided anything stamped filed as requested nor provided in return Werth's envelopes (see Werth's Motion for "Complaints and Requests" I.G., filed on Jun. 19, 2014)

3. Four requests were sent by Werth as far back as February and May of 2013 and January and March of 2014. All were ignored. Werth has letters requesting Mr. Day to file as well.

4. Numerous letters to the clerk, many stamped "Filed", as well as letters to the Judge, prosecutor, and Mr. Day

VERIFICATION

I, Wayne R. Werth, do declare that the foregoing is true and correct.

Wayne R. Werth

CERTIFICATION

I, Wayne R. Werth, do certify that original copies of the foregoing were sent to the Prosecutor's Office and to Honorable Judge Cleland's office on 9-2-14 by U.S. mail

9-2-14

Respectfully submitted,

Wayne R. Werth

Wayne R Werth #233146

September 5, 2014

Clare County Jail

255 W. Main St.

Harrison, MI 48625

Clerk of the Court

231 W. Lafayette

Detroit, MI 48625

Re: D-35 Case No 11-20129

Sis/Ma'am,

Enclosed are several documents which are listed on the Affidavit For Filings, notarized, and sent with this letter.

I have been requesting many things from the Clerk, some since last November, viz: docket sheets, list of attorneys, to know the exhibits, etc. Many of the letters were sent with motions and return envelopes and are stamped "filed"; however, many the Clerk did not respond to, nor did they send back my return envelopes.

Because of these unanswered letters, Lt. Smith took me to use the phone to call the Clerk on June 20, 2014, for which the Clerk advised to send another letter, which I did several times and some are stamped "filed". This is overwhelming, and I am scheduled for trial this month. I have tried everything to obtain these documents, and now I would never have enough time. I don't feel this department has conducted itself fairly or properly or according to certain right afforded to defendants.

Please file the contents. Thank you.

Sincerely

Way R Werth

cc. Chief Judge

AFFIDAVIT For Filings

- 1) On this day I sent to the Courts: a Motion In Response To Pretrial Hearing And Re-consideration of Defendants Pro Se Addendums to Mr. Orr's and other motions, which Werth put in the mail on 8-30-14, dated however 9-2-14, and provided a self-addressed, prepaid envelope for something stamped filed but the clerk never got responded; This motion was sent to all parties. Because the clerk again has not responded, Werth sends it again.
2. A motion to Proceed Pro Se with Affidavit;
3. Four FOIA Requests, to be placed on main docket's exhibits
4. This was done in front of staff and put in an envelope addressed to the Clerk of Court, including a letter for the clerk.

I, Wayne R. Werth, ~~do~~ declare that the foregoing is true and correct under the penalty of perjury:

Executed on 5th day of September, 2014

D. K. Orr

Respectfully submitted,

Way R. Werth

D. K. Orr
Notary Public, Clare County, MI
My Commission Expires Feb 8, 2015
Acting in the county of Clare

With # 283196
by Jait
Main St.
MI 48225



RECEIVED
SEP 10 2014
CLERK'S OFFICE
DETROIT

Clerk of the Court
231 W. Lafayette
Detroit, MI 48226

(Notarized Affidavit for Filings)
9-5-14

FILED
SEP 10 2014
CLERK'S OFFICE
DETROIT

